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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,412	10/21/2003	Charles W. Krespach	242-321	5950

7590 05/22/2007
Robert H. Earp, III
McDonald, Hopkins Co., LPA
600 Superior Avenue E.
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EXAMINER

WINNER, TONY H

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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05/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,412

Applicant(s)

KRESPACH ET AL.

Examiner

Tony H. Winner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-9, 17-19, and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-5, 8-9, and 17-19, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tambornino (USPN. 7,708,002 B2) in view of Templeman (USPN. 4,565,345).

Tambornino discloses all of the structural as claimed, the towing assembly (figure 6), comprising:

- a. a hitch ball receiver having at least one cavity;
- b. a hitch ball (18);
- c. a member connected with the hitch ball.

Tambornino lacks the teaching of a member engageable with the cavity to prevent rotation of the hitch ball during installation.

Templeman discloses a mirror assembly for a vehicle, the structure comprising:

- a. a member (38) engageable with a cavity of the base (7) so as to prevent rotation of the member structure,
- b. the base also includes a second recess.

Based on the teaching of Templeman, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hitch ball

assembly of Tambornino to include the engageable member with a circular recess hitch ball receiver of Templeman so as to provide a positive locking, thus, preventing relative rotation between two members.

With regard to claims 4-5, 8, 9, 17-19, and 22-24 Tambornino as modified by Templeman discloses all of the claimed limitations.

2. Claims 6-7 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tambornino as modified by Templeman and in view of Chene et al. (USPUB. 2005/0246869 A1).

Tambornino as modified by Templeman is disclosed above but lacks the teaching of a spacer.

Chene discloses a clamping ring utilizing a spacer (18) to facilitate the fastening of a nut and bolt structure.

Based on the teaching of Chene, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hitch ball/receiver assembly of Tambornino as modified by Templeman to include the spacer of Chene recess hitch ball receiver of Templeman so as to facilitate the fastening of a nut and bolt structure.

With regard to claims 7 and 25, Tambornino as modified by Templeman and Chene discloses the claimed invention but lacks the teaching of a recess that substantially oval shape with two parallel flats. The Examiner takes position that it would have been an obvious matter of design choice to make the recess in any particular pattern (e.g. square, hexagon, triangle..etc) to suite an application and since

the applicant has not disclosed that by selecting any particular pattern listed above would solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the present teaching.

Response to Arguments

3. Applicants' arguments filed 2/22/07 have been fully considered but they are not persuasive.

Applicant argues that the primary reference Tambornino lacks the acircular recess having sidewall and such deficiency cannot be cured by adding the teaching of Templeman.

In response, the office contends that reference to Tambornino was used to demonstrate a ball hitch structure that is well known or commonly use in the art. What's lacking is an acircular recess on the plate (70) and a certain structure for the base that would prevent relative rotation of the hitch assembly during installation. It is the office's position that such connection in Templeman, that inhibit relative rotation (col 3 lines 30-35) between two structures, may have obvious uses beyond its primary purposes, and a person of ordinary skill often will be able to fit the teaching of multiple patents together like pieces of a puzzle.

Applicant further argues the motivation "to improve the connection of a hitch tongue and hitch tube so as to withstand greater loads" was illogical. After reviewing the previous office action, dated 9/13/06, no such motivation was presented, therefore, the office will not address this argument.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

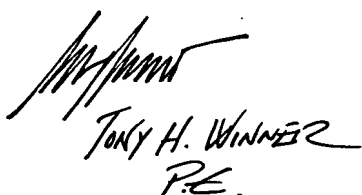
5. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (571) 272-6654. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6584.



TONY H. WINNER
P.E.

May 16, 2007